

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Civil Writ Petition No.14163 of 2009

DATE OF DECISION : SEPTEMBER 1, 2010

M/S HINDUSTAN PETROLEUM CORPORATION LTD.

..... PETITIONER(S)

VERSUS

THE CENTRAL INFORMATION COMMISSION & ORS.

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE AJAI LAMBA

PRESENT: Mr. Anil Malhotra, Advocate, for the petitioner(s).
Dr. Sushil Gautam, Advocate, for respondent No.2.

AJAI LAMBA, J. (Oral)

1. This petition under Article 226 of the Constitution of India has been filed praying for issuance of a writ in the nature of certiorari quashing order dated 23.7.2009 (Annexure P-8), passed by the Central Information Commission (respondent No.1).
2. In brief, the controversy is that respondent No.2-Khushi Ram filed application (Annexure P-1) to seek information under the Right to Information Act, 2005 (for short 'the Act'). Partial information was supplied by the petitioner-M/s Hindustan Petroleum Corporation Limited vide order dated 11.2.2009 (Annexure P-2).
3. Aggrieved by the order (Annexure P-2), respondent No.2 filed

an appeal before respondent No.3 i.e. Ist Appellate Authority. Respondent No.3, vide order dated 16.3.2009 (Annexure P-4), however, disposed of the appeal. Respondent No.3 agreed with the stand of respondent No.4 (Central Public Information Officer) and denied supply of information under the Act by way of simply saying that the matter is confidential and a matter of commercial confidence and, therefore, exempt under Section 8(1)(d) of the Act.

4. Aggrieved by the order (Annexure P-4), respondent No.2 filed a complaint before respondent No.1. The complaint has been disposed of vide order dated 23.7.2009 (Annexure P-8), while holding in following terms :-

“4. The CPIO has duly replied and furnished a point wise response. He has however refused to provide the information relating to (i) supply of LPG cylinders, and (ii) list of registered customers – domestic and commercial.

5. The denial of the details of commercial users of LPG cylinders, u/s 8(1)(d) of the Act is justified, as the disclosure of such information would adversely affect the competitiveness of the respondent viz-a-viz other oil marketing companies. The decision of the CPIO is therefore upheld.

6. In so far as the disclosure of the details of domestic LPG customers is concerned, there is no justification for withholding the requested information since the services are offered at subsidized rates. The CPIO is therefore directed to furnish the relevant details in respect of the total supply of LPG cylinders for domestic consumption including the list of registered LPG customers, with M/s Rajesh Gas Services, Hisar. The information should be furnished within one month from the date of issue of this decision.

7. The appeal is thus disposed of.”

5. The issue which has been raised for consideration is that while the information in regard to the commercial consumers has been denied by the authorities, the information in regard to domestic consumers has been ordered to be supplied. Learned counsel for the petitioner has argued that no distinction can be drawn in commercial and domestic gas consumers by the Central Information Commissioner and, therefore, the order passed by the authority directing supply of information in regard to domestic consumers is unreasonable, injudicious and illegal.

6. The stand of respondent No.2, by way of affidavit filed in court today, is that the said respondent is entitled to information in relation to commercial consumers also. In the circumstances of the case in hand, protection under Section 8(1)(d) of the Act is not available. An issue of public importance has been raised and, therefore, it would not be in public interest to withhold the information. It has been argued that there is no difference in the nature of information as both relate to list of consumers and, therefore, even the list of commercial consumers ought to have been ordered to be supplied.

7. Having gone through the decision taken by respondent No.1, as extracted above, I find that there is no discussion on the issue. No reasons as to under what circumstances a particular information has been directed to be supplied and the other denied, has not been assigned. The order (Annexure P-8) is not a reasoned order. The impugned order directs the petitioner to supply information in relation to domestic consumers, however, while allowing protection to the petitioner under the provisions

of Section 8(1)(d) of the Act, it has been held that information in relation to commercial consumers is not required to be given. The order, however, does not give out reasons for making a distinction between the two set of consumers. The supply of connections for domestic purposes and commercial purposes are part and parcel of the same business.

8. Since both the petitioner as well as respondent No.2 are not satisfied with the order (Annexure P-8), and the order does not assign any reasons, there being no discussion on the issue mentioned above, this petition is disposed of while quashing order (Annexure P-8). The matter is referred back to respondent No.1, for re-adjudication. Under the circumstances, respondent No.1 would rehear the matter and pass a reasoned and speaking order while clearly giving out the reasons.

9. In view of the above, the petitioner and respondent No.2 are directed to remain present before respondent No.1 on 30.9.2010, to enable the authority to adjudicate in terms of what has been observed above.

September 1, 2010
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(AJAI LAMBA)
JUDGE

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?